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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,329	08/03/2006	Louis Robert Litwin	PU030328	5739

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EXAMINER	
NGUYEN, STEVEN H D	
ART UNIT	PAPER NUMBER
2419	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/588,329	LITWIN ET AL.	
	Examiner	Art Unit	
	Steven HD Nguyen	2419	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 August 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *10/22/2008; 8/3/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 2-4 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

2. As claims 2 and 4, "a second game" already recites in the claim 1.

Specification

3. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 9-10 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

6. the specification does not disclose how a wireless channel can conveyed a hardware such as transportable medium in order to load them into server "providing the ability to **load the transportable medium onto the second gaming server**" .

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-4, 8-18 provides for the use of transportable character gaming at a wireless access to a user, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 1-4, 8-18 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd.* v. *Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

9. Claims 2-4 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As claims 2 and 4, line 2, "the future" is lack antecedent basic.

As claim 4, line 4, "the first WLAN hotspot" is lack antecedent basic.

The applicant should correct the 112 second.

Claim Rejections - 35 USC § 101

10. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claims 1-19 rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of In Re Bilski 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The method including steps of providing the device … is broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13. Claims 1-9 and 11-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Paulsen (US 20050153768) in view of Giobbi (USP 6800027).

As claims 1-3, 9, 11, 18 and 20, Paulsen discloses a method for providing transportable character-centric gaming at a wireless access to a user comprising the steps of providing a first/second gaming server at a first/second wireless access, wherein the gaming server is accessible from the wireless access by requiring the user logon (Page 3, sec 30, 50-60, same servers connect with the client computers via wireless); providing at least one first selectable game at said first gaming server having at least one savable character (Page 50, Sec 50 provides

games at the casino wherein the computer can saved the state of the game such as interruption or suspend); providing the capability to save the savable character at an arbitrary point in the first game onto a transportable medium to retain a current saved character (Page 50, Sec 50 provides games at the casino wherein the computer can saved the state of the game such as interruption or suspend, page 8, claims 5 and 8). However, Paulsen does not disclose the current saved character is loadable for play in a second game independent of said first game. In the same field of endeavor, Giobbi discloses the current saved character is loadable for play in a second game independent of said first game (Col. 9, lines 5-21, first game is differ from second game).

Since, Paulsen discloses the use of primary and secondary game. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and system for loading the current saved character into a second game independent of said first game as disclosed by Giobbi. The motivation would have been to provide a player with bonus.

As claims 4 and 12-15, Paulsen inherently discloses the first WLAN hotspot and the second WLAN hotspot are different wherein game servers with hotpots which have each own game environment (Pages 5-6, 50 and 57, a wireless device such as PDA, mobile phones will include a plurality of base stations or access points).

As claim 7, Paulsen discloses the transportable medium comprises at least one of a laptop, PDA, floppy disk and compact disk (Pages 5-6, 50 and 57, a wireless device such as PDA, mobile phones).

As claims 8 and 16-17, Paulsen inherently discloses providing at least one selectable gaming environment on the first/second gaming server; and providing the ability to enter the

saved character for play in the selected gaming environment (Page 1, Sec 5-6 includes the selectable game and 62 and 64 disclose a saved character for the selected gaming environment when the game selected).

As claim 5, Paulsen and Giobbi fails to disclose the steps of determining if a previously saved character exists for the selectable game which is desired to be used, wherein if a previously saved character exists further comprising the steps of entering the previously saved character for use in the selectable game; and wherein if a previously saved character does not exist, further comprising the step of allowing play of the selectable game with a game-provided character. However, the examiner takes an official notice that a method for determining if a player would to start a new game based on default data or a continue game based on saved data are well known in the software developing art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply this method into the teaching of Paulsen and Giobbi. The motivation would have been to provide a user a plurality of choice to save a plurality of state information.

As claim 6, Paulsen and Giobbi fails to disclose determining if a previously saved character exists for the selectable game, wherein if a previously saved character exists for the selectable game, further comprising the steps of determining if the previously saved character is desired to be deleted and replaced with the current saved character, wherein if said previously saved character is desired to be deleted and replaced with the current saved character, further comprising the steps of determining the previously saved character to be deleted, replacing the deleted previously saved character with the current saved character; and wherein if said previously saved character is not desired to be deleted and replaced with the current saved

character, further comprising the steps of allowing the current saved character to be saved and retaining the previously saved character; and wherein if a previously saved character for the selected game does not exist, further comprising the steps of allowing the current character to be saved. However, the examiner takes an official notice that a method for determining if a player want to save or not, if yes, then determine if file is already exist or not if yes then overwrite the old file with new file or save it with a new name file are well known in the software developing art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply this method into the teaching of Paulsen and Giobbi. The motivation would have been to provide a user a plurality of choice to save a plurality of state information.

As claim 19, Paulsen and Giobbi fails to disclose determining if a previously saved character exists which is desired to be used for the selectable game, wherein if a previously saved character exists which is desired to be used for the selectable game, further comprising the step of entering the previously saved character for use in the selected game, and wherein if a previously saved character which is desired to be used for the selectable game does not exist, further comprising the step of allowing play of the selectable game with a game-provided character. However, the examiner takes an official notice that a method for determining if the data does not exist, then apply a default value are well known in the software developing art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply this method into the teaching of Paulsen and Giobbi. The motivation would have been to prevent human error.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571)272-3159. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kizou Hassan can be reached on (571) 272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

4/17/2009
/Steven HD Nguyen/
Primary Examiner, Art Unit 2419